
OLR Bill Analysis

sHB 5029 (as amended by House "A")*

AN ACT CONCERNING SEXUAL ASSAULT, STALKING AND INTIMATE PARTNER VIOLENCE ON CAMPUS.

SUMMARY:

By law, public and independent higher education institutions must adopt and disclose one or more policies on sexual assault and intimate partner violence. Institutions must also offer sexual assault and intimate partner violence primary prevention and awareness programming and campaigns.

This bill expands the scope of the policies and prevention and awareness programming by (1) requiring for-profit institutions licensed to operate in Connecticut to comply with them and (2) applying them to (a) stalking and (b) institutions' employees. It also (1) requires all institutions (public, independent, and for-profit), after a reported incident, to immediately provide concise written notification to each victim regarding his or her rights and options under the institution's policy or policies and (2) allows all institutions to permit anonymous reporting.

The bill requires all higher education institutions to report annually to the Higher Education Committee concerning their policies, prevention and awareness programming and campaigns, and the number of incidents and disciplinary cases involving sexual assault, stalking, and intimate partner violence. It also requires institutions to include information about stalking and family violence in their annual uniform campus crime reports.

The bill (1) requires all higher education institutions to establish a campus resource team to review their policies and recommend protocols for providing support and services to students and employees who report being victims and (2) establishes membership

and education requirements for the team. It establishes additional (1) education requirements for the institution's Title IX coordinator and special police force, campus police force, or campus safety personnel and (2) training requirements for members of the state or local police who respond to campus incidents.

The bill requires all higher education institutions to enter into a memorandum of understanding (MOU) with at least one community-based sexual assault crisis service center and one community-based domestic violence agency. The MOU must (1) establish a partnership with the service and agency and (2) ensure that victims can access free and confidential counseling and advocacy services, either on or off campus.

Lastly, the bill makes technical changes.

*House Amendment "A" replaces the original file, which contained similar policy, reporting, and education requirements.

EFFECTIVE DATE: July 1, 2014

§ 2 — INSTITUTION POLICIES

By law, each public and independent higher education institution must adopt one or more policies concerning sexual assault and intimate partner violence. The policies must include provisions for (1) providing information to students about their options for assistance if they are victims of such violence, (2) disciplinary procedures, and (3) possible sanctions. Institutions must include the policies in their uniform campus crime report, which is produced annually and available on request to students, employees, and applicants for admission.

The bill expands the scope of the policies by (1) requiring for-profit institutions licensed to operate in Connecticut to comply with them and (2) applying them to (a) stalking and (b) institutions' employees. Under current law, stalking is addressed by the institutions' policies only in the context of intimate partner violence, which is limited to harm against an individual by a current or former spouse or by a

partner in a dating relationship. However, neither current law nor the bill require for-profit institutions to produce the uniform campus crime report.

The bill specifies that the institutions' policies apply to incidences of sexual assault, stalking, and intimate partner violence wherever they occur (i.e., on or off campus). It also specifies that the policies apply to people who report or disclose being a victim. Under current law, they apply only to people who report being a victim.

The bill allows all higher education institutions to permit victims to report or disclose incidents anonymously. The institution must notify the victim of its obligations under state or federal law, if any, to (1) investigate or address the alleged sexual assault, stalking, or intimate partner violence and (2) assess whether the report triggers the need for a timely warning or emergency notification pursuant to federal regulations. These obligations may, in limited circumstances, result in the victim's identity becoming known (see BACKGROUND).

Under current law, an institution's disciplinary proceedings must be conducted by an official trained in issues relating to sexual assault and intimate partner violence. The bill requires that this training be annual and that it also include stalking.

Information Provided to Victims

By law, institutions' policies must have a provision for giving contact information for and, if requested, professional assistance in accessing and using campus, local advocacy, counseling, health, and mental health services. The bill requires the contact information to be concise and in writing. By law, the policies must also provide written information about a victim's rights to (1) notify law enforcement and receive assistance from campus authorities in making the notification and (2) obtain a protective order, apply for a temporary restraining order, or seek enforcement of an existing order. The bill specifies that this information must be concise and written in plain language.

The bill requires all higher education institutions to provide concise

notification, written in plain language, to each student and employee who has been the victim of sexual assault, stalking, or intimate partner violence regarding his or her rights and options under the institution's policy or policies. The institution must provide this notification immediately upon receiving a report of the incident. In addition to the rights listed above, the victim's rights and options under existing law include, among other things, reasonably available opportunities to change academic, living, campus transportation, or working situations.

§§ 1 & 2 — PREVENTION AND AWARENESS PROGRAMMING AND CAMPAIGNS

By law, public and independent higher education institutions must offer, within existing budgetary resources (1) sexual assault and intimate partner violence primary prevention and awareness programming for all students and (2) ongoing prevention and awareness campaigns. The bill:

1. requires for-profit institutions to offer the programming and campaigns;
2. requires the programming and campaigns to also address stalking;
3. requires the programming to be provided (a) annually and (b) to all employees, not just students as under current law;
4. eliminates the requirement that the programming and campaigns be within existing budgetary resources; and
5. specifies that prevention and awareness programming includes poster and flyer campaigns, electronic communications, films, guest speakers, symposia, conferences, seminars, or panel discussions.

It also specifies that the programming must include strategies for bystander intervention. (Current law requires that the programming address bystander intervention, without a reference to strategies.) The bill defines "bystander intervention" as the act of challenging social

norms that support, condone, or permit sexual assault, stalking, and intimate partner violence.

§§ 1 & 2 — REPORTING

§ 2 — *Annual Report to Higher Education Committee*

The bill requires all higher education institutions, annually beginning October 1, 2015, to submit a report to the Higher Education Committee that includes, for the immediately preceding calendar year, the following information concerning sexual assault, stalking, and intimate partner violence:

1. a copy of the institution's (a) most recently adopted policies and (b) most recent concise written notification of a victim's rights and options under these policies;
2. the number and type of prevention, awareness, and risk reduction programs at the institution;
3. the type of prevention and awareness campaigns at the institution;
4. the number of incidents reported to the institution;
5. the number of confidential or anonymous reports or disclosures; and
6. the number of disciplinary cases and the final outcome of these cases, including the outcome of any appeals, to the extent that reporting the outcomes does not conflict with federal law.

§ 1 — *Uniform Campus Crime Reports*

By law, each public and independent higher education institution (but not for-profit institutions) must annually publish a uniform campus crime report and make it available on request to students, employees, and applicants for admission. The report must include information about certain crimes committed in the immediately preceding calendar year within the geographical limits of property the institution owns or controls. The bill requires the report to additionally

include information about incidences of (1) 1st, 2nd, and 3rd degree stalking and (2) family violence (which includes various crimes committed against a family or household member). It also requires the report to be published annually by October 1, rather than September 1 as current law requires.

§ 3 — CAMPUS RESOURCE TEAM

Membership

The bill requires each public, independent, and for-profit higher education institution to establish a campus resource team by January 1, 2015. The team must have representatives from, and be responsible for, each of the institution's campuses. The institution's president selects the team members, who must include the institution's Title IX coordinator (under federal law, each institution receiving federal student aid must designate a Title IX coordinator) and chief student affairs officer, or their designees, and, to the extent they exist on campus, at least one representative from the institution's: (1) administration; (2) counseling services office; (3) health services office; (4) women's center; (5) special police force, campus police force, or campus safety personnel; (6) faculty; (7) senior and mid-level staff; (8) student body; (9) residential life office; and (10) judicial hearing board.

The team may also include any other members designated by the institution's president. Additionally, the president must invite to serve on the team at least one representative from (1) a community-based sexual assault crisis service center; (2) a community-based domestic violence agency; and (3) the criminal justice system in the institution's judicial district, including state and local police and state prosecutors.

Education Requirements

The bill requires the institution to ensure that each team member is educated in the following areas:

1. the awareness and prevention of sexual assault, stalking, and intimate partner violence;
2. communicating with and providing assistance to students or

- employees who are victims;
3. the institution's sexual assault, stalking, and intimate partner violence policies;
 4. the provisions of (a) Title IX of the federal Elementary and Secondary Education Act of 1972 (Title IX) and (b) the federal Clery Act (see BACKGROUND);
 5. victim-centered response and the role of community-based sexual assault victim advocates;
 6. the role and function of each team member in ensuring a coordinated response to reports of sexual assault, stalking, and intimate partner violence; and
 7. communicating sensitively and compassionately with victims, including an awareness of responding or providing services to, or assisting in locating services for, victims from diverse cultural backgrounds.

The bill defines "victim-centered response" as a systematic focus on a victim's needs and concerns that (1) ensures services are delivered in a compassionate, sensitive, nonjudgmental manner; (2) ensures an understanding of how trauma affects victim behavior; (3) maintains victim safety, privacy and, where possible, confidentiality; and (4) recognizes that victims are not responsible for the assault, stalking, or violence committed against them.

Duties

The bill requires the campus resource team, by July 1, 2015, to (1) review the institution's sexual assault, stalking, and intimate partner violence policies and (2) recommend to the institution protocols for providing support and services to students and employees who report being victims. The team must meet at least once a semester to review the protocols and ensure that they are updated as necessary.

§§ 5 & 6 — ADDITIONAL EDUCATION AND TRAINING REQUIREMENTS

The bill requires each public, independent, and for-profit higher education institution to ensure that its Title IX coordinator and members of its special police force, campus police force, or campus safety personnel employed by the institution are educated in the awareness and prevention of sexual assault, stalking, and intimate partner violence, and in trauma-informed response. It also requires members of the State Police and local police departments who act as first responders to reports of sexual assault, stalking, or intimate partner violence at the institution to receive training in (1) the awareness and prevention of these crimes and (2) trauma-informed response.

The bill defines “trauma-informed response” as one that understands the complexities of sexual assault, stalking, and intimate partner violence through training centered on (1) the neurobiological impact of trauma, (2) the influence of societal myths and stereotypes surrounding trauma’s causes and impact, (3) understanding perpetrators’ behavior, and (4) conducting an effective investigation on behalf of trauma victims.

§ 4 — MEMORANDA OF UNDERSTANDING

The bill requires each public, independent, and for-profit higher education institution, by January 1, 2015, to enter into an MOU with at least one community-based sexual assault crisis service center and one community-based domestic violence agency. The MOUs must (1) establish a partnership with the service and agency and (2) ensure that a student or employee who reports or discloses being a victim of sexual assault, stalking, or intimate partner violence can access free and confidential counseling and advocacy services, either on or off campus.

The partnership must include (1) involvement of the institution’s campus resource team and (2) training between the institution and service center and agency to (a) understand each other’s role in responding to reports and disclosures of sexual assault, stalking, and intimate partner violence against students and employees and (b) the institution’s protocols for providing support and services to such

students and employees.

BACKGROUND

Confidential or Anonymous Reporting

The U.S. Department of Education's Office of Civil Rights (OCR) enforces federal laws and regulations concerning sexual harassment (which includes sexual violence) in higher education institutions. In an April 2011 "Dear Colleague" letter (an official statement of department policy), OCR stated that an institution should evaluate a sexual harassment victim's request for confidentiality in the context of its responsibility to provide a safe and nondiscriminatory environment for all students. Factors the institution may consider include the seriousness of the alleged harassment, the victim's age, whether the alleged perpetrator has been the subject of other harassment complaints, and the alleged perpetrator's due process rights. The institution should inform the victim if it cannot ensure confidentiality.

Title IX

Title IX (20 USC § 1681 et seq.) prohibits discrimination on the basis of sex by any institution that receives federal student aid (e.g., Pell grants and student loans). Under Title IX, sexual harassment (which includes sexual violence) is a form of sex discrimination.

Clery Act

The federal Clery Act (20 USC § 1092(f)) requires institutions that receive federal student aid to, among other things, adopt and disclose policy statements that address several campus safety-related issues. One of these statements must specifically address the institution's sexual offense policy, procedures, and programs. The Clery Act also requires institutions to annually report several crime statistics to the U.S. Department of Education.

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable Substitute

Yea 19 Nay 0 (03/13/2014)

Public Safety and Security Committee

Joint Favorable

Yea 18 Nay 0 (04/08/2014)